

# Exhibit 9

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.*

Civil Action No. 07-10248-PBS

Exhibit to the July 24, 2009, Declaration of James J. Fauci  
In Support of Plaintiff's Motion for Partial Summary Judgment and  
In Opposition to the Roxane Defendants' Motion For Partial Summary Judgment

Tate, Kimbir Leeann - October 15, 2004 10:43:00 a.m.

1:1 CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 IN THE UNITED STATES DISTRICT COURT

3 DISTRICT OF MASSACHUSETTS

4

5 IN RE PHARMACEUTICAL ) MDL NO. 146 INDUSTRY AVERAGE )

6 WHOLESALE PRICE LITIGATION ) CIVIL ACTION: 01-CV-12257 PBS \_\_\_\_\_)

7 ) THIS DOCUMENT RELATES TO )

8 ALL CLASS ACTIONS ) \_\_\_\_\_)

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11 CONFIDENTIAL

12 30(b)(6) DEPOSITION OF KIMBIR LEEANN TATE

13 ATTORNEYS' EYES ONLY

14 SAN FRANCISCO, CALIFORNIA

15 OCTOBER 15, 2004

16

17 30(b)(6) DEPOSITION OF KIMBIR LEEANN TATE,

18 taken at 201 California Street, 17th Floor, San Francisco,

19 California, on Friday, October 15, 2004, at 10:43 A.M.,

20 before Michael Cundy, Certified Shorthand Reporter, in and

21 for the State of California.

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2 APPEARANCES:

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22 ALSO PRESENT:

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8:1                   Is there any medical reason that would prohibit  
2   you from testifying truthfully or remembering fully today?

3           A     No.

4           Q     It's the case that you have been a paralegal at  
5   McKesson for 12 years?

6           A     Yes.

7           Q     Prior to becoming a paralegal, did you hold any  
8   other positions at McKesson?

9           A     No.

10          Q     I am going to hand you what was marked as  
11   Exhibit 1 yesterday. I don't think I am going to mark it  
12   again, but I have new copies for everybody in case you need  
13   it.

14          MR. KAUS: So are you remarking all documents for  
15   each deposition?

16          MS. CONNOLLY: No.

17          MR. KAUS: Is that how you are doing it?

18          MS. CONNOLLY: Well, I want to continue the  
19   exhibits today as McKesson picking up where we left off  
20   yesterday.

21          MR. KAUS: Fine. That is what I was going to  
22   suggest.

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11:1 Q And is EDI a type of database? Do you know?

2 A No. It is just a term for having data  
3 electronically transmitted from one point to another point.

4 Q Do you have any idea how long those notices of WAC  
5 prices are maintained in either paper or electronic form at  
6 McKesson?

7 A I believe the paper records -- it really depends  
8 on who is getting the records. The records will go to the  
9 appropriate person on Greg's staff, whoever works with that  
10 manufacturer. Most people keep them about three months but  
11 not longer than that.

12 If it is electronic data, I think it is stored on  
13 the system maybe 60 days.

14 Q And then for that electronic data that is not  
15 stored for longer than 60 days or approximately 60 days,  
16 are there any sort of backup tapes where older data is  
17 maintained?

18 A No.

19 Q And is that the case for both price announcements  
20 for brand drugs as well as generic drugs?

21 A Yes.

22 Q Yesterday Mr. Yonko also testified that McKesson

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12:1 submits invoices or credit memos to the manufacturers in  
2 order to obtain chargebacks from them?

3 A Yes.

4 Q Can you tell me in what form those invoices are  
5 submitted?

6 A First, I would like to kind of change the  
7 terminology that Greg used, because I don't think Greg is  
8 as familiar with the chargeback maintenance system as I am.  
9 Okay?

10 Q That is fine.

11 A So I want to be clear about what I am describing  
12 to you.

13 Q Sure.

14 A Maybe the thing to do is to describe the process  
15 that we submit chargebacks --

16 Q I would be happy if you did that.

17 A -- and how the database works.

18 So basically, you know, the manufacturer will make  
19 a contract with our customers, and when that happens, we  
20 will honor that price, and usually, that price is below our  
21 acquisition cost or WAC, and in order to be made whole, we  
22 have to submit the difference between what we charge the

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13:1 customer and what we paid for it.

2           When that happens, at the time of billing, we  
3 submit a credit memo. It goes to Carrollton, which is  
4 where the contract maintenance database is, and actually,  
5 it is really all at the same time because the information  
6 gets submitted and the database just kind of takes care of  
7 everything.

8           So what ends up happening is we submit to the  
9 manufacturers what's called a PO for the credit memos, and  
10 within that PO, there could be thousands, thousands of line  
11 items or -- you know, because it is a PO for all of their  
12 drugs. We don't separate them out by here are the POs for  
13 this drug, here are the POs for that drug, here are the POs  
14 for this customer. It is by manufacturer, and that is  
15 transmitted electronically.

16           The manufacturer adjudicates it.

17           We either get paid or they deny it, and if we get  
18 paid, we get paid, and we are not too much worried about  
19 it. If they deny it, then we get the information back from  
20 the manufacturer, and we have to go back to the customer  
21 and either figure out, you know, if they weren't a part of  
22 the contract -- you know, we have to do all of the

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14:1 adjudication for the denial, and sometimes it is just maybe  
2 a wrong number, contract lead number, or something like  
3 that, but it just goes through the system like that.

4           So within the charge-back database, while the  
5 information is in there, it is stored by manufacturer, not  
6 by product, or by customer, because if a customer calls,  
7 you know, we have to look at the customer number, and  
8 within that, you can see what chargebacks we have submitted  
9 on behalf of a customer, but with the POs, again, to get to  
10 kind of the product line item detail, you have to go  
11 through every PO and drill down line item and read every  
12 invoice within a PO; so it is a much different process than  
13 Greg described yesterday, I think.

14       Q     So in other words, if we wanted data for, for  
15 example, the top five McKesson customers, that would be  
16 possible but it would not be broken down by drug, referring  
17 to charge-back data?

18       A     If you want to -- chargeback information for the  
19 top five customers?

20           MR. KAUS: For how far back, as far as the part  
21 parameters?

22           MS. CONNOLLY: That is one of my questions is how